

AMENDMENT UNDER 37 C.F.R. §1.111
Application Number: 10/727,493

Our Ref: Q78867
Art Unit: 3762

AMENDMENTS TO THE DRAWINGS

Applicant is submitting herewith 5 sheets of replacement drawings. They are intended to replace Figures 5-9 filed on May 3, 2004.

Attachment: Replacement Sheet(s)

REMARKS

Claims 1-14 are all the claims pending in the application.

Foreign Priority

Applicant thanks the Examiner for acknowledging the claim to foreign priority under 35 U.S.C. § 119(a)-(d), that the certified copy of the priority document has been received, and that the IDS has been received.

Drawings

The Examiner has indicated that the drawings filed on May 3, 2004 have been objected to because Figures 5-9 are not labeled with the appropriate text. Thus, Applicant submits herewith replacement sheets incorporating these changes.

Specification and Claims

The Examiner objects to the specification and claims 3, 9, and 13 because the letter “e” is said to be missing in several words. Applicant thanks the Examiner for pointing out these discrepancies, which are believe to be fixed by the above amendments.

Prior Art Rejections

Applicant has amended the independent claims for clarification and respectfully traverses the prior art rejections.

In particular, as amended, the pending claims 1-14 require that the parameter to be displayed is obtained by analyzing the waveform of the electric pulse which has been actually output from the electrodes.

All of the prior art rejections are based in part on Alferness. Alferness teaches to display the parameter of a waveform of an electric pulse which is *predicted to* be output from the

electrodes. Alferness frequently explains that the displayed results are “anticipated results” and none of the asserted art teaches or suggests at least detecting a waveform of the electric pulse “which has been actually output from the electrodes”.

In addition, Applicant respectfully disagrees with the Examiner’s contention that the expressly claimed requirement of “display[ing] the parameter together with one of the waveform and a model waveform which is an invariable waveform representative of the electric pulse” (e.g., claim 1), can be ignored. Office Action, page 5. The claim language expressly requires the two features to be displayed, and the Examiner’s admission that Alferness does not expressly disclose these features displayed together, mandates withdrawal of the prior art rejections. See, e.g., MPEP § 2173.05(g) (functional limitations perfectly acceptable where they set definite boundaries on the patent protection sought) citing *In re Barr*, 444 F.2d 588 (CCPA 1971).

The Examiner’s contention that Alferness “is necessarily capable of displaying the detected waveform” is irrelevant to the question of anticipation. If the Examiner is implying that this feature is inherently disclosed, then the Examiner must show that the claimed feature is necessarily “present” in the device disclosed (ie., that the two claimed features *must* be displayed together in the Alferness device). However, Alferness proves otherwise since Alferness expressly does *not* disclose the two features together as claimed. For at least these reasons, Applicant submits that all pending claims are patentable over Alferness.

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

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The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "John F. Rabena", written over a horizontal line.

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